

**BROWNFIELDS STUDY GROUP
MEETING
June 22, 2006**

I. Attendees

John Angeli, City of Fond du Lac
Erika Biemann, Giles Engineering
Kevin Bugel, Giles Engineering
D.J. Burns, Drake Environmental
Frank Dombrowski, WE Energies
Darsi Foss, DNR
Nancy Frank, UW-Milwaukee
Mark Giesfeldt, DNR
Johanna Howard, City of Milwaukee
Maureen Hubeler, DNR
Bruce Keyes, Foley & Lardner
Larry Kirch, City of La Crosse
Dan Kolberg, DNR
Mike Lemcke, DNR
Leo Linnemanstons, STS Consultants
Scott Manley, WMC

Percy Mather, DNR
Carol McCartney, Ayres Associates
Susan McDade, Village of Waunakee
Jessica Milz, DNR
Mark Mobley, Select Engineering, LLC
Tom Mueller, TEMCO
Tom Mueller, Jr., TEMCO
Paul Overlien, Shaw Environmental
Andrew Savagian, DNR
Jason Scott, Dept. of Commerce
Justin Shell, DNR
Tom Silverman, RMT
Joy Stieglitz, Vandewalle & Assoc.
Bob Strous, DNR
Kim Wilde, Village of Waunakee
Scott Wilson, Ayres Associates
Roy Wittenburg, Natural Resource Tech.

II. Welcome, Introductions, Agenda Repair

III. DNR, Commerce Biennial Budgets – Update, Discussion

Jason Scott from Commerce gave a brief summary of the brownfields funding at Commerce and the recent reorganization; agency has had \$14 million every two years for brownfield grants and that probably will be the same recommendation as before; have had budget recommendations in the past, including an amendment to remove the requirement of seven small communities, and removing the annual appropriation requirement, neither of which were approved;

Scott: The federal HUD funds (CDBG) and state brownfield funds are now put together; we try to dedicate at least \$500,000 in federal funds to brownfields specifically, some times it's more or less, depending on what's happening budget-wise

Tom Mueller: If you use those CDBG dollars on brownfield projects, does that throw the federal requirements like Davis-Bacon onto the project?

Scott: If you do combine these funds, the project does have to incorporate federal requirements

Mark Giesfeldt gave a brief talk about the steps involved in the DNR budget process and briefly outlined some of the funding ideas coming from the RR Program

- **May** – Air & Waste Division submits budget package for internal analysis
- **May-August** – Internal DNR budget analysis and final package completed
- **September** – Natural Resources Board (NRB) approves, final DNR budget goes to DOA

Giesfeldt: The most important aspect to our proposal is sustaining the RR Program staff and the services that come with that staff; we've been seeing state and federal funding sources either stay flat or decline, and we've also seen a steady decline in fees for our services, so the Program has been looking for a larger funding source that can provide us with funding stability for the Program without relying as heavily on fees

Giesfeldt: Other issues we've talked about include (but are not limited to):

- *additional bonding for state-funded cleanups; asking for \$3 million to continue with state-lead cleanups of contaminated properties where the RP is unknown, unable or unwilling
- *want to continue to promote 30th St. Industrial Corridor brownfields work;
- *a couple of items that won't make it in the program's budget proposal was seed money to help the state's brownfields insurance program and a landfill cleanup program

Giesfeldt: Finally, the Drycleaner Environmental Response Fund (DERF) is not sustaining itself, so if the sustaining-program approach succeeds, DERF could also be addressed; we also know that the industry is willing to put up some additional funding but they want the state to match

Mueller: It would be very helpful to know what the DNR's position is when they go to the board; we don't want to end up being opposed to what the RR Program recommends, and we may want to go beyond what they suggest, so it will be helpful to know whenever that is feasible

Giesfeldt: We should be able to get some sort of budget information package to the Study Group in early August

Scott Manley: Given some of the recent audits and other legislative efforts, with next year's budget process, the Legislature will be scrutinizing a lot of fees and will pay a lot of attention to the DNR's budget; there's also a deficit in the Transportation Fund

Mueller: It's never been easy to find sources of funding for brownfields; one thing, though, that is evident, you can take a small source of funding from PECFA, not a big chunk, and you could turn that small amount of \$3,4,5 million for brownfields into leveraging \$20 million and creating jobs

Bob Strous from DNR's RR Program gave a brief summary of some of the funding ideas the Program is working on; while many of our customers think we don't charge enough for fees and are fine with raising them, there are other who still think we charge too much; to view a summary of these options, please use the following link:

John Stibal: Raising the fees are ok, but base it on the size of the land

Joy Stieglitz: You can you do it based on a consultant model, i.e. billable hours, so the more hours you require to work on a project the more you bill, but have a cap with a max amount; Illinois and Minnesota do it hourly, so it is not an uncommon practice

John Angeli: We should check other states and what they charge; Wisconsin is a lower fee state

Tom: Figure out what the average cost per hour is plus fringes, then develop your rate; it might be an easier sell to the taxpayer, because you can show there's an increased cost to sustain the services

Scott Wilson: If you bill on an hourly basis, what assures payment?

Strous: Closure, you don't get closure if you don't pay

Darsi Foss: Minnesota does bill on a quarterly basis, but we looked at that and we don't have the administrative staff to run a more complex system

Bruce Keyes: If it was a rate system, maybe you could base it on acreage, and you create exemptions to that; say if you're under a half-acre, you could charge a presumptive fee, and base your exemptions off of that

Foss: So, just to summarize; we've been hearing there may be a \$2.6 billion deficit looming for the state, so this fee issue might be bigger than anticipated; also, the RR Program we may end up having a 12-staff person dilemma based on our total incoming revenue from both the feds and the state, and we may be on our own to deal with these problems vs. other times when we had other state or fed money sources to fall back on

Manley: Some folks view fees as taxes, because you have to pay it vs. it being optional; if you're going to successfully sell a fee increase, they need to see it as desirable and get it as a tangible benefit; my experience has shown that legislators would be willing to increase fees for specific circumstances if you have your fee payers' support.

Erika Biemann: You may also want to look at other costs in Wisconsin that are different from other states, that may be in addition to the fees, like higher property taxes

DNR (via the RR Program) will put some sort of funding information package together for distribution to Study Group in August

IV. Financial/Big Picture Subgroup -- Update

Andrew Savagian gave a brief update on the Study Group's Financial/Big Picture Subgroup; the Group met on May 19th and put together a list of funding ideas; the group plans to meet again this summer to prioritize the list, and the plan to present the list to the full Study Group at the next full meeting

The Study Group will continue these discussions; the Financial/Big Picture Subgroup will take this issue up again when they meet in July or August and will bring funding recommendations to the Study Group; DNR will incorporate the ideas discussed at this meeting into the overall suggestions coming from the subgroup; anyone interested in joining the subgroup please contact Andrew Savagian at andrew.savagian@dnr.state.wi.us

V. Brownfields Legislation – Update, Discussion, Action?

Darsi Foss gave a brief legislative summary; the brownfields legislation introduced by Carol Roessler was signed by the governor – is now WI Act 418 – and the DNR is working on the implementation of those pieces of legislation

Dan Kolberg went over the new provisions and the implementation of what the RR Program will be doing, including outreach to customers, training of staff, etc.; the program will also be placing a comprehensive listing of all the licensed landfills on the Internet, so folks will know whether their site is licensed or not

Kolberg: We're guessing that some 1300-1500 sites have been licensed, and that DNR estimates we have 5-6,000 known waste disposal sites that exist in the state, so less than a quarter of the known disposal sites have been licensed; we hope to have all this work done by September 1 of this year;

DNR information to the new brownfield legislation is at the following link:

<http://www.dnr.state.wi.us/org/aw/rr/rbrownfields/legislation.htm>

AB 657 (WI Act 233) – Condemnation Of Property

Darsi Foss gave a brief summary, including a recent article that appeared in the *Wisconsin State Journal* about a project in Madison that was impacted by the new law

AB 34 – Disposal of PCB-Dredged Soils

Foss: It may affect a community that is cleaning up and redeveloping a harbor and has some PCB-sediments it wants dredged

Manley: This bill is related to the Fox River dredging issue but didn't pass out of the Legislature last session

AB 475 and SB 798 (companion legislation) – Raising the Tipping Fees

Foss: May have an affect on brownfield projects; while this also didn't pass last session, there's a very good chance it will come back in the next session and receive a lot of attention; there has been some discussion about an exemption for the brownfield projects

Nancy Franks: An exemption makes sense, since the law already has an exemption for high volume industrial waste

Study Group agreed to return to this issue about tipping fees with the option of possible putting together an issue paper

Federal Brownfields Legislation

Foss: Brownfield bill is in Congress right now; had a hearing in June and are looking for innovative ideas; Mayor Antaramian is the president for the U.S. Conference of Mayors, and provided comments on key brownfield issues; one of comments related to making the federal grants more streamlined and user friendly

Anyone interested in providing input on the federal brownfields issues, please get those to Darsi Foss at darsi.foss@dnr.state.wi.us

Other Issues

ERTIFs: DNR will post the list of those communities that have used the ER TIFs on the Study Group web page, with a link to each sites BRRTS information

RR Program's IT Strategy: RR Program staff are looking for input on a new strategy they are developing for improving their Information Technology (IT); **DNR will send this information out again in an email to the Study Group distribution list**

VI. ASCE REPORT CARD

Mark Mobley: American Society for Civil Engineering (ASCE) is putting out a report card in 2007 on America's infrastructure, which will cover roads, drinking water, wastewater, dams, rivers, contaminated sites, energy, etc.; for Wisconsin's infrastructure, they're starting with the 2002-2003 Report Card, the historic background will remain the same, and they'll stick with basic format; ASCE is looking for input from the Study Group; an internal draft will be put together for review by committee on June 30; over the next two months it will be reviewed, along with the official stakeholder review in August

DNR will make this available on the Study Group web page at the following link:
<http://www.dnr.state.wi.us/org/aw/rr/rbrownfields/bsg/index.htm#gen>

VII. GASB New Standard For Reporting Remediation Obligations – Discussion

Dan Kolberg briefed participants; there may very well be potential impacts on budgeting processes and bond ratings for local governments; it could also impact new brownfields projects if there is additional liability; by fall they should have final standards for doing this work, and will require state and local governments to incorporate these into their financial statements after July, 2007

Percy Mather: This will affect budgets in Fiscal Year '07, so the timing of getting this information out to people is important; the other impact is on consultants, because you'll have to come up with ranges of options for remediation costs

Johanna Howard: At the city, we've already been doing this for about three years, as required by the auditors; we haven't seen much of a problem, except that our liability is growing as we've gotten more brownfields money

Keyes: This is similar to FASB; I think, in the more "sophisticated" brownfield world, this will have little or no affect, but could be an issue for folks who aren't aware of it, and maybe we can help educate them on the issue

Kolberg: We'll continue with this discussion in DNR; there are links in the handout

Please contact Dan Kolberg at dan.kolberg@dnr.state.wi.us if you have any questions

LUNCH

VIII. State Agencies -- Update

DNR Green Space and SAG Grants

Kolberg: Greenspace grants are due July 21; last round we received 18 grants and gave out \$1 million; we have the same funding this time, and we'll have awards presented before the SAG gets going

Kolberg: for the SAG, last round (Round 7) we gave out 48 awards, 8 large and 40 small, out of 72 submittals; Round 7 is pretty much done and we're gearing up for Round 8, which will be announced this summer with the usual due date in October and awards in February of 2007

Stibal: For Green Space, if your match is well over the grant amount, does that get you extra points?

Kolberg: Not sure, we'll get back to you

Answer to this question will be put in the email to the Brownfields Study Group distribution list that includes the draft notes from the meeting (sent 7/6/06)

Foss: Also, Dan and Michael Prager will check and get back to people about anyone who did not use their SAG money; last round we gave out 20-21 supplemental awards, primarily to small grant recipients

Commerce Grants

Scott: We met our budget levels, and we anticipate trying to use the HUD grant funds for blight; we're giving out 17 grants, which is about the average number we've given out in the past; the bulk of applications are coming in February through April, at least 50 percent; of the 10 grants that weren't funded, six weren't eligible and the other four are being considered for FY '07 funding;

Scott: Of the 27 total applications we received, 12 came from communities under 30,000; 8 received funding and four were denied; of those, two will be considered for FY'07; as of July 1, we'll get another \$7 million and we will have those four already in line for funding

DNR Ready For Reuse Loan and Grant Program

Jessica Milz: This is cleanup money only, \$4 million from EPA; grants can only go to local government if they own the property; so far we have four applications in, two for loans – Fond du Lac and West Allis; and two for grants from Waunakee; we expect others to be coming in soon

Tom Silverman: When are they due?

Milz: It's a rolling application process, as we have money we'll keep giving it out until there's none

Keyes: Does the program address QA/QC?

Milz: Yes, DNR will have a standard QAAP document that all applicants can use

Silverman: Is that information on-line?

Milz: Yes

Angeli: Does the money have to get repaid to the DNR, or can it revolve to municipalities?

Milz: Since DNR is the recipient of the money from EPA, the money must get repaid to DNR; cities can apply for a revolving loan fund award separately to EPA if they wish

Keyes: Is there a way in a year or two down the road, after the city and the state have been through this a few times, where you can look at some set protocol for applications where we could ask EPA to approve the standard set?

Foss: That's a very good idea

DNR Land Recycling Loan Program

Maureen Hubeler gave a brief background on the program; the DNR gives out loans at 0 percent interest rate for landfills or development projects, Phase I and II site assessments and

remediation; loaned out \$11.5 million of the \$20 million so far, have \$8.5 million left; have given out seven or eight loans; about half of the loans are landfills and half redevelopment; we've received three more Intent To Apply (ITA) notices; August 1 and October 1 are the deadlines for applications; for more information on the Land Recycling Loan, please see the following link: <http://www.dnr.state.wi.us/org/caer/cfa/EL/Section/brownfield.html>

DNR's/Milwaukee's 30th St. Industrial Corridor Assessment

Percy Mather gave a brief summary on the project; moving on a fast track, city already has 14 Phase I site assessments completed, and two properties are already into Phase II; spent about \$30,000 of the \$400,000 EPA grant so far; also, the Centers For Disease Control (CDC), through the Agency for Toxic Substances and Disease Registry (ATSDR), has been interested in studying the relationship to brownfields and health; they're funding a staff person in EPA's Region 5 headquarters in Chicago, who's doing a post doctoral; as part of her job she'll be studying/measuring health and social indicators at 30th Street

Scott: Does city own and if not how do you get access?

Howard: The city owns most of the properties; we do try to get access to do testing, or go through the court system with inspection warrants for all the ones we don't own; we did also solicit the community about sites, but didn't get much feedback

To access the DNR's 30th Street Site Assessment, please see the following link:
<http://www.dnr.state.wi.us/org/aw/rr/rbrownfields/uri-30th-street.htm>

National Brownfields Association

Savagian gave a brief update on upcoming NBA events

DNR Real Estate Training

Foss and Kolberg noted that the RR Program and EPA will help host a real estate training for local governments and other interested parties, tentatively scheduled for September; goal of the training is to help communities understand real estate transactions better, since many communities end up being de facto realtors for brownfield properties

Foss: EPA said they would provide training to only two states and luckily we're one of the two; we're hoping to make it a one-day course, and we may tag-on a half-day training that would include brownfields financial information; that way attendees can go to one or the other, or both

Mueller: We need to make sure we coordinate these trainings with whatever the NBA is putting together, some of their trainings may overlap

IX. PRESENTATION AND TOUR

Special thanks to Scott Wilson of Ayres Associates for his presentation on the former Stokley USA brownfield site/Waunakee Community Center, and to Kim Wilde and Sue McDade from the Village of Waunakee for their hospitality and excellent tours!!!

Adjourn